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Attorney Docket No. 463037-00015/A-64559-3/RFT/RMS/RMK

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

O'CONNOR *et al.*

Serial No.: 09/096,593

Filed: 6/12/1998

For: *ELECTRONIC METHODS
FOR THE DETECTION OF
ANALYTES*

Group No. 1641

Examiner: LISA COOK

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, USPTO, BOX SEQUENCE, P.O. Box 2327, Arlington, VA 22202 on:

Date:

Signature

September 10, 2002
Mary McFarland
Mary McFarland

TERMINAL DISCLAIMER
TO OBVIATE A DOUBLE PATENTING REJECTION

Assistant Commissioner for Patents

Washington, DC 20231

Sir:

Petitioner, **Clinical Micro Sensors**, (hereinafter "CMS"), represents that it is the assignee of the entire right, title, and interest of

- (1) the instant application, Serial No. 09/096,593; and,
- (2) co-pending application, Serial No. 08/873,597.

provisional 3/7/97 LC 12/13/02

Written assignment proof for Patent Application No. 09/096,593 is recorded in the U.S.

Patent and Trademark Office at Reel/Frame 9555/0326. A copy of the assignment is attached as

Exhibit A.

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Written assignment proof for Patent Application No. 08/873,597 is recorded in the U.S. Patent and Trademark Office at Reel/Frame 8875/0764. A copy of the assignment is attached as Exhibit B.

CMS hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as presently shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending Patent Application No. 09/096,593, filed on June 12, 1998, and which would extend beyond the expiration date of co-pending Patent Application No. 08/873,597.

CMS hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the co-pending patent is commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, CMS does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of any patent granted on co-pending Application No. 08/873,597, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is empowered to act on behalf of the petitioner/assignee. The undersigned has reviewed the evidentiary documents in the chain of title of the present application identified above, and certifies that, to the best of assignee's knowledge and belief, title is in the assignee, CMS.

I, the undersigned, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that willful, false statements may jeopardize the validity/enforceability of the application or any patent issued thereon.

Dated: Aug 16, 2002

By: 

Jon Faiz Kayyem, President and CEO